

PART VIII

STATUTORY PRESUMPTIONS IN MINERS' CLAIMS

C. SECTION 411(c)(4)

4. THE "MANY YEARS" PRESUMPTION

Although there is no counterpart in the Act, the general regulation implementing Section 411(c)(4), 20 C.F.R. §410.414, provides another means by which a claimant can establish the existence of pneumoconiosis where he has "many years" of coal mine employment although less than 15. 20 C.F.R. §410.414(b)(4). There is no corresponding provision in the Part 718 regulations. "Many years" has been held to mean at least ten years. See **Williamson v. Director, OWCP**, 6 BLR 1-1020 (1984).

Unlike Section 411(c)(4), the miner need not demonstrate a *totally disabling* respiratory or pulmonary impairment. Instead, the miner must show the existence of a *severe* lung impairment which, in the exercise of sound judgment may be considered to establish entitlement. **Clegg v. Director, OWCP**, 1 BLR 1-433, 1-435-36 (1978). The standards of 20 C.F.R. §§410.412, 410.422, 410.424, 410.426 and the Appendix following Section 410.490, serve as a guide to the determination of a severe impairment. **Youtzy v. Director, OWCP**, 1 BLR 1-1043 (1979). In this regard, a claimant may use "other relevant evidence," as contemplated by Sections 410.426(d) and 410.414(c), to demonstrate the existence of this impairment. **Sebben v. Director, OWCP**, 2 BLR 1-177, 1-183 (1979).

CASE LISTINGS

["mere showing" language of Section 410.414(b)(4) does not require claimant to show existence of pneumoconiosis through objective medical evidence in addition to severe lung impairment since satisfying provisions of the regulation is proof of existence of disease] **Vigil v. Director, OWCP**, 1 BLR 1-328, 1-331 (1977).

[evidence of shortness of breath, chest pains on exertion and frequent respiratory infections more than "mere showing of a respiratory or pulmonary impairment" under Section 410.414(b)(4)] **Arthur v. Director, OWCP**, 1 BLR 1-864, 1-868 (1978).

[lay testimony alone insufficient to establish pneumoconiosis at Section 410.414(b)(4)] **Romero v. Director, OWCP**, 2 BLR 1-531, 1-536 (1979); **Miller v. Director, OWCP**, 2 BLR 1-447, 1-450 (1979).

[lay testimony and medical evidence failed to establish severe lung impairment under Section 410.414(b)(4) where one physician gave no opinion as to any impairment and another noted restrictions based on history provided by miner rather than assessing his physical limitations] ***Parsons v. Director, OWCP***, 6 BLR 1-272 (1983).

["many years" presumption of Section 410.414(b)(4) requires minimum of ten years coal mine employment] ***Green v. Director, OWCP***, 7 BLR 1-276 (1984); ***Williamson v. Director, OWCP***, 6 BLR 1-1020 (1984).

DIGESTS

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